



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
07/357,797	05/30/89	NILSEN	0

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EXAMINER
SHINGLETON, M

ART UNIT
252

PAPER NUMBER
6

DATE MAILED: 10/08/91

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 7-17-91 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice re Patent Drawing, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, Form PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

Part II SUMMARY OF ACTION

1. ☒ Claims 10-12, 19-21, 24 are pending in the application.

Of the above, claims 20, 21, 24 are withdrawn from consideration.

- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☒ Claims 10-12, 19 are rejected.
- ☐ Claims _____ are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable, ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner, ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed on _____, has been ☐ approved, ☐ disapproved (see explanation).
- ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

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As to the transmittal letter, applicant is cautioned that it may not fulfill the duty to disclose in accordance with 37 CFR 1.56(a).

Claims 20, 21 and 24 are withdrawn from consideration since they are drawn to the non-elected subject matter. Claims 19-23 of the previous office action also should have been withdrawn from consideration at the time of the previous office action for the same reasons. Note however that only the subject matter of these claims that was drawn to the elected invention was examined. Thus, the withdrawing of the claims drawn to the non-elected subject matter is considered proper. Note that claim 19 has been amended to delete the subject matter of group III and thus the only subject matter left is that of the elected invention group II. This claim will accordingly be examined in its entirety.

The following is a quotation of the first paragraph of 35 U.S.C. 112: The specification shall contain a written description of the invention, and the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. 112, first paragraph, as the specification, as originally filed, does not provide support for the invention as is now claimed. Specifically, the means permitting the use of a "spherical surface" lacks support. In fact no spherical surface is even set forth. Applicant is advised that in the event there is indeed support for this in the specification the drawings must show this feature as required under 37 C.F.R. 1.83(a).

Also, not only does the permitting of a spherical surface has no support, but the negative limitation, i.e. "without at the same time also enclosing the base means", has no support in the original specification.

Claims 12 and 19 are rejected under 35 U.S.C. 112, first paragraph, for the reasons set forth in the objection to the specification.

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The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office Action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 10-12 and 19 are rejected under 35 U.S.C. 103 as being unpatentable over Dale et al. in view of Wotowiec and in further view of Moerkens et al. and George, Jr..

Dale et al. discloses "circline" screw-in ballast arrangement having all the recited features as set forth by the above claims, except for having the screw-in ballast housing itself support the lamp and the use of a folded tube lamp in place of the "circline" lamp used in Dale et al.

Wotowiec discloses a screw-in ballast arrangement using a "circline" type lamp arrangement in which the housing of the ballast actually forms the supporting structure for the lamp itself. The clear advantageous properties of this arrangement of Wotowiec is the integration into one easy to change unit the inverter and lamp. Another clearly apparent property of the type of lamp is since this unit is sealed no contact with the lamp terminals is possible. With the arrangement of Dale et al. the plugging and unplugging of the lamp unit from the ballast could lead to a shock hazard situation to the person replacing the lamp.

It would have been obvious to a person having ordinary

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skill in the art at the time the invention was made to integrate into one unit the "circline" lamp and the screw-in ballast housing so as to obtain a structure that "seals" the lamp terminals and thereby reducing the risk of shock to person coming in contact with the lamp fixture, among other reasons clearly taught by Wotowiec.

Moerkens et al. both disclose a screw-in ballast arrangement using a "folded fluorescent lamp having a shape similar to that of a letter U" which is integrated into one unit with the screw-in ballast housing.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the "circline" lamp of Dale et al. with that of a "U" lamp given that Moerkens et al. clearly shows the advantageous properties that a "U" lamp holds over a "circline" lamp, one of these items is compactness, i.e. more closely approximates the shape of an incandescent lamp it is designed to replace. Also the reasons to modify Dale et al. given the teachings of Wotowiec are also presented by the Skeist et al. reference.

The new matter addition to the claims also would have been obvious taking the teachings of Moerkens et al. and George, Jr. together with the above rejection. The use of a housing to enclose the U-type is common place in the art. It would have been obvious to supply such a structure to protect the U-tube. However, the enclosure is not exactly spherical. George, Jr. however does disclose the use of a spherical structure that encloses interior lamps for many reasons. the main one is the protection of the interior lamps and this includes the protection against accidental displacement of the lamps and for this reason which is the same as that of Moerkens et al. would have made it obvious to switch the typically cylindrical enclosure with a spherical one given the functional equivalence.

Claim 12 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the prior art invention as set forth in claim 18 of U.S. Patent no. 4,677,345 ('345). out

Claim 12 only differs from that of claim 18 of '345, in that claim 18 does not specifically recite "base" means and the source of AC voltage being a ballast. In regards to the base means, this is clearly indicated in claim 18 of '345 taken as a whole. The preamble of the claim clearly sets

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forth an assembly to be screwed into an light socket. Accordingly, there must be a "base". With respect to the "ballast" arrangement, clearly the AC source of claim 18 of '345 must have a ballast function since it is powering a gas discharge lamp. However, at the very least it would have been obvious to incorporate a high frequency ballast into the structure as claimed by claim 18 of '345.

Claims 10-12,19-21 and 24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the prior art invention as set forth in claim 18 of U.S. Patent no. 4,677,345 ('345) in view of Dale et al.

Claim 18 of '345 sets forth all the limitations of the above claims but differ by a matter of wording and the specific use of an inverter ballast arrangement as the high frequency supplying means. Claim 18 also fails to recite the rectifier means as presently claimed. Dale et al. however discloses that the use of such a high frequency supplying means that incorporates the use of a rectifier for use in a screw-in ballast arrangement is well known. One of the clearly advantageous features of the AC voltage source is its "small" weight. Thus, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate into the claim device as defined by claim 18 of '345 the solid state ballast arrangement or AC voltage source so as to not only obtain the high frequency AC source but also to provide the light weight power supply needed in a screw-in arrangement and also given the functional equivalence of the two sources a AC voltage, as taught and/or clearly apparent from Dale et al.

With respect to claim 11 the use of folded lamps in screw-in ballast/lamp assemblies are well known in the art and therefore would be obvious to employ, especially due to their compact nature.

With respect to newly presented claims 19-23, these claims only differs from that of the above patent '345 and Dale et al. references by the non-elected subject matter. This subject matter is either well known prior art and/or is not being relied upon for patentability therefore, these limitations are looked upon as having been obvious.

Claims 10-12,19-21 and 24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the prior art invention ✓

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as set forth in claims 1-21 of U.S. Patent no. 4,857,806 ('806).

Claims of '806 sets forth all the limitations of the above claims but differ by a matter of wording. One example of this is claim 3 of '806, which set forth a rectifier means that supplies the DC power but is silent on it supplying "appropriate DC voltage". Clearly, the rectifier must supply "appropriate DC voltage".

Applicant's arguments filed 7-17-91 have been fully considered but they are not deemed to be persuasive.

The first part of applicant's remarks recites the newly added limitation to claims 10-12 which applicant believes overcomes the rejection of Skeist. The second part of applicant's remarks are directed to solely the non-elected non-examined subject matter. For example the inverter has to have a structure which the transistor conducts current for a brief period of time. It was clearly pointed out that the non-elected subject matter will not be examined in the previous office action and in fact claims containing the subject matter of the non-elected invention have been withdrawn from consideration.

Note also that no arguments on claims 10-12 and newly amended claim 19 as being unpatentable over Dale et al. in view of Wotowiec in further view of Skeist et al. or Moerkens et al. have been presented. It is assumed that clearly applicant agrees with the rejection to these claims. This rejection has been repeated. With respect to the new matter i.e. the "permitting" the use of a spherical surface carries no patentable weight for obvious reasons.

Note also that no arguments or terminal disclaimer overcoming the various double patenting rejections has ever been presented. Accordingly, it is assumed that applicant agrees with the double patenting rejections and since no terminal disclaimer has been filed as of yet the examiner has no choice but to repeat these rejections.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nilssen 4,496,878 discloses a U-lamp with the starting circuits formed in the base of the lamp.

Applicant's amendment necessitated the new grounds of

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rejection. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Shingleton whose telephone number is (703) 308-4903. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

MSJ

Shingleton/mbs
2 October 1991

[Signature]
ERNEST R. LAROCHE
SUPERVISORY PATENT EXAMINER
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